

AMENDED IN ASSEMBLY APRIL 10, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 949

Introduced by Assembly Member Krekorian

February 22, 2007

An act to add Sections 1569.682 and 1569.683 to the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 949, as amended, Krekorian. Residential care facilities for the elderly: resident transfers.

Existing law provides for the licensure and regulation of residential care facilities for the elderly, as defined, by the State Department of Social Services. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.

This bill would require a licensed residential care facility for the elderly, prior to transferring a resident to another facility or to an independent living arrangement as a result of the forfeiture of a license, or a change in the use of the facility ~~to another licensed facility or to an independent living arrangement~~ *pursuant to an eviction by the department*, to take all reasonable steps to transfer affected residents safely, and minimize possible trauma by taking specified actions relating to resident notification and transfer and relocation planning, as prescribed. The bill would require a facility, if 7 or more residents of the facility will be transferred as a result of the forfeiture of a license or the change of use of a facility, to submit a proposed relocation plan

for the affected residents to the department for review, and would require the department to approve, ~~modify~~, or disapprove the plan.

The bill would also require the department to annually prepare and submit to the relevant legislative policy committees a report on the number of residential care facilities for the elderly that transfer residents of the facility in accordance with the requirements of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1569.682 is added to the Health and
2 Safety Code, to read:
3 1569.682. (a) A licensed residential care facility for the elderly
4 shall, prior to transferring a resident of the facility to another
5 facility or to an independent living arrangement as a result of the
6 forfeiture of a license, as described in subdivision (a), (b), or (f)
7 of Section 1569.19 or change of use of the facility pursuant to
8 ~~paragraph (5) of subdivision (a) of Section 87589 of Title 22 of~~
9 ~~the California Code of Regulations, take all reasonable steps to an~~
10 ~~eviction by the department, in accordance with the department's~~
11 ~~regulations, take all reasonable steps to~~ transfer affected residents
12 safely and to minimize possible transfer trauma, and shall, at a
13 minimum, do all of the following:
14 (1) Prepare an evaluation of the relocation needs of each resident
15 to be transferred, which shall include consideration of the proximity
16 to the resident's responsible person and a determination of the
17 most appropriate and available type of future care and services for
18 the resident. The evaluation shall be completed prior to giving
19 written notice of transfer to the resident or his or her legal
20 representative, and shall also include a recommendation regarding
21 the type of facility that would best meet the resident's needs, and
22 a list of facilities that are available and adequate to meet the
23 resident's needs.

1 (2) Discuss the relocation evaluation with the resident or his or
2 her legal representative within 30 days of providing the written
3 notice as required by subdivision (b), and include a copy of the
4 relocation evaluation in the resident's records for transfer. If the
5 resident or his or her legal representative chooses to make a transfer
6 prior to completion of the relocation evaluation, the residential
7 care facility for the elderly shall inform the resident or his or her
8 legal representative, in writing, of the facility's obligation to
9 provide a relocation evaluation.

10 (3) Rebate to the resident or his or her legal representative a
11 proportional per diem amount of any prepaid monthly fees, if the
12 resident leaves the residential care facility for the elderly before
13 the end of the month for which fees have been prepaid. This rebate
14 shall be paid no later than the day the resident leaves the residential
15 care facility for the elderly.

16 (4) Pay a relocation fee of two thousand five hundred dollars
17 (\$2,500) to each resident living at the facility at the time that the
18 written notice of transfer described in subdivision (b) is given,
19 within 10 days of service of the written notice of transfer, if the
20 resident is required to transfer to a new facility or another
21 independent living arrangement.

22 (b) (1) Prior to transferring a resident, the facility shall give
23 written notice to each affected resident or his or her legal
24 representative at least 90 days in advance of the transfer, stating
25 the specific reason or reasons for the transfer, and advising the
26 resident or his or her legal representative of the intended transfer
27 in accordance with the requirements in subdivision (a). The notice
28 shall also include a written relocation evaluation for each affected
29 resident prepared pursuant to paragraph (1) of subdivision (a). If
30 the transfer is made pursuant to subdivision ~~(d)~~ (c), the notice shall
31 inform the resident or his or her legal representative that the
32 approved relocation plan is available to the resident or his or her
33 legal representative free of charge, upon request.

34 (2) *Upon issuing the written notice pursuant to paragraph (1),*
35 *a facility shall not accept new residents or enter into new admission*
36 *agreements.*

37 (c) If seven or more residents of a residential care facility for
38 the elderly will be transferred as a result of the forfeiture of a
39 license or change in the use of a residential care facility for the
40 elderly pursuant to subdivision (a), the facility shall submit a

1 proposed relocation plan for all of the affected residents to the
2 department for approval. ~~The department shall have the authority~~
3 ~~to approve, disapprove, or modify the relocation plan in department~~
4 ~~for approval. The department shall approve or disapprove the~~
5 ~~relocation plan, and monitor its implementation, in accordance~~
6 with the following requirements:

7 (1) Upon submission of the relocation plan, the residential care
8 facility for the elderly shall be prohibited from accepting new
9 residents and entering into new admission agreements for new
10 residents.

11 (2) The relocation plan shall provide for implementation of the
12 relocation services described in subdivision (a), and shall describe
13 the availability of beds and other residential care facilities for the
14 elderly in the area for residents to be transferred, and the proposed
15 discharge process, and shall include a listing of community
16 resources, and a description of the staff available to assist in the
17 transfers.

18 (3) ~~The~~ Within 30 working days of receipt, the department shall
19 approve or disapprove the relocation plan prepared pursuant to
20 this subdivision, and, if the department approves the plan, it shall
21 become effective upon the date the department grants its written
22 approval of the plan.

23 (4) If the department disapproves a relocation plan, the
24 residential care facility for the elderly may resubmit an amended
25 plan, which the department shall promptly either approve or
26 disapprove, within 10 working days of receipt by the department
27 of the amended plan. If the department fails to approve a relocation
28 plan, it shall inform the facility, in writing, of the reasons for the
29 disapproval of the plan.

30 (5) Until such time that the department has approved a
31 residential care facility for the elderly's relocation plan, the facility
32 shall not issue a notice of transfer or require any resident to transfer.

33 (6) The residential care facility for the elderly shall also submit
34 a copy of the relocation plan to the local ombudsman *program* for
35 the facility at the same time the plan is submitted or resubmitted
36 to the department, and shall submit to both the department and the
37 local ombudsman *program* a final list of names and new locations
38 of all residents who are relocated.

39 (d) (1) If a residential care facility for the elderly fails to provide
40 the relocation services required by subdivisions (a) and (b), and,

1 if the director determines that it is necessary to protect the residents
2 of a facility from physical or mental abuse, abandonment, or any
3 other substantial threat to health or safety, the department shall
4 take any necessary action to minimize trauma for the residents.
5 The department shall contact any local agency that may have
6 placement or advocacy responsibility for the residents, and shall
7 work with those agencies to locate alternative placement sites, and
8 contact relatives or other persons responsible for the care of these
9 residents. The department shall use physicians and other medical
10 or long-term care professionals deemed appropriate by the
11 department to provide onsite evaluation of the residents and to
12 assist in the transfer of residents.

13 (2) The department's participation in the relocation of residents
14 from a residential care facility for the elderly shall not relieve the
15 facility of any responsibility under this section. A residential care
16 facility for the elderly that fails to comply with the requirements
17 of this section shall be required to reimburse the department for
18 the cost of providing the relocation services. If the facility fails to
19 provide the relocation services required in subdivisions (a) and
20 (b), and the department is not able to arrange for the provision of
21 those services required by those subdivisions, then the department
22 shall request that the Attorney General's office, the city attorney's
23 office, or the local district attorney's office seek injunctive relief
24 and damages in the same manner as provided for in Chapter 5
25 (commencing with Section 17200) of Part 2 of Division 7 of the
26 Business and Professions Code.

27 (e) Any person, firm, partnership or corporation who owns,
28 operates, establishes, manages, conducts, or maintains a residential
29 care facility for the elderly who fails to comply with the
30 requirements of this section shall be liable for the imposition of
31 civil penalties in the amount of one hundred dollars (\$100) per
32 resident per day for each day that the facility is in violation of this
33 section, until such time that the violation has been corrected.

34 (f) A resident of a residential care facility for the elderly covered
35 under this section, may bring a civil action against any person,
36 firm, partnership or corporation who owns, operates, establishes,
37 manages, conducts, or maintains a residential care facility for the
38 elderly who violates the rights of a resident, as set forth in this
39 section. Any person, firm, partnership or corporation who owns,
40 operates, establishes, manages, conducts, or maintains a residential

1 care facility for the elderly who violates this section shall be
2 responsible for the acts of the facility's employees and shall be
3 liable for costs and attorney fees. Any such residential care facility
4 for the elderly may also be enjoined from permitting the violation
5 to continue. The remedies specified in this section shall be in
6 addition to any other remedy provided by law.

7 (h) This section does not apply to a facility that has obtained a
8 certificate of authority to offer continuing care contracts, as defined
9 in paragraph (8) of subdivision (c) of Section 1771.

10 SEC. 2. Section 1569.683 is added to the Health and Safety
11 Code, to read:

12 1569.683. The department shall annually prepare and submit
13 to the relevant policy committees of the Legislature a report on
14 the number of residential care facilities for the elderly that transfer
15 residents of the facility in accordance with the requirements of
16 Section 1569.682.

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.